HON'BLE Mrs. JUSTICE T.MEENA KUMARI
AND
HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.25737 OF 2007

DATE: 03-12-2007

Between :

M/s. Bajrang Infotech Systems Pvt. Ltd.,
2-2-118/9/A (344), Street No.4,
Shivam Road, Beside Bank of Baroda Lane,
New Nallakunta, Hyderabad, Rep. By its
Managing Director Sri V. V. Subrahmanyam … Petitioner

And

1. The Commercial Tax Officer, Vidyanagar Circle,
Hyderabad., and two others. ... Respondents

HON'BLE Mrs. JUSTICE T.MEENA KUMARI
AND
HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.25737 OF 2007

ORDER : (Per Mrs. Justice T.Meena Kumari)

This writ petition is filed seeking a declaration that the action of the 1st respondent in insisting for payment of the disputed tax of Rs.38,98,345/- during the pendency of appeal before the 2nd respondent for the assessment year 2003-04 under the A.P. General Sales Tax Act, 1957 as arbitrary and illegal.

The petitioner is a registered dealer under the A.P. Value Added Tax Act, 2005 (for short, 'the Act') and is an assessee on the rolls of the 1st respondent – Commercial Tax Officer, Vidyanagar Circle, Hyderabad. For the assessment year 2003-04, the 1st respondent by order dated 30.3.2007 determined the tax liability of the petitioner as Rs.38,98,345/-, without considering the objections raised by the petitioner. However, subsequently after giving credit to a sum of Rs.5,74,831/- paid by way of TDS, a revised order dated 31.5.2007 was passed by the 1st respondent determining the tax due as Rs.24,97,339/-.

The petitioner preferred an appeal before the 2nd respondent - Appellate Deputy Commissioner (CT), Secunderabad challenging the said order. Though appeal is pending, the petition for stay was rejected by the 2nd respondent by order dated 30.10.2007. Challenging the same, the petitioner preferred Revision on

27.11.2007 before the 3rd respondent – Additional Commissioner (CT) Legal – which is still pending. Meanwhile, the Deputy Commercial Tax Officer issued a notice dated 17.11.2007 to the petitioner demanding a sum of Rs.38,98,345/- without taking into consideration the revised orders passed by the 1st respondent for a sum of Rs.24,97,339/-. Hence, the writ petition.

Having heard the learned Counsel for the petitioner as well as the learned Government Pleader for Commercial Taxes appearing for the respondents and in view of the fact that the Appeal is pending before the 2nd respondent, we are of the opinion that the interests of justice would be met if stay is granted pending Appeal subject to certain conditions.

Accordingly, the Writ Petition is disposed of granting stay of recovery of the disputed tax pending Appeal before the 2nd respondent subject to the petitioner depositing half of the disputed tax, after giving credit to the amounts already paid, within a period of six weeks from today. However, in the event of failure to deposit half of the disputed tax within the time stipulated above, the impugned order would stand operative.

It is made clear that the amount deposited in compliance with this order shall be without prejudice to the rights of the petitioner in Revision.

With the above observation, the Writ Petition is disposed of. No costs.

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T.MEENA KUMARI, J.

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G. ROHINI, J

Dt.03-12-2007

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